



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/245,596	02/05/99	KUTCHMAREK	D SPRINGS3.0-0

EXAMINER	
CHOL.S	

ART UNIT	PAPER NUMBER
3724	9

000530 QM12/0314
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

DATE MAILED: 03/14/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/245,596

Applicant(s)
Kutchmarek et al.

Examiner
Stephen Choi

Group Art Unit
3724



☒ Responsive to communication(s) filed on Dec 20, 1999

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-8 and 11-37 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-8 and 11-37 is/are rejected.

☒ Claim(s) 31-33 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☒ The proposed drawing correction, filed on Dec 20, 1999 is ☐ approved ☒ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 6

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3724

DETAILED ACTION

Drawings

1. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 12/20/1999 have been disapproved because any proposal by the applicant for changes to the drawing to cure defects must be filed as a print or pen-and-ink sketch showing such changes in red ink. MPEP § 608.02(v). Correction is required. ✓
2. The drawings are objected for the same reason set forth on paragraph 3-5 of the previous action.

Information Disclosure Statement

3. The information disclosure statement filed 12/20/1999 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because no publication dates are shown. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Art Unit: 3724

4. The information disclosure statement filed 12/20/1999 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered. Applicant indicated that U.S. patent 4,790,226 is an English-language document corresponding to Japanese patent documents 62-153482 and 62-153483. However, these Japanese documents are not listed as priority document on '226 patent.

Double Patenting

5. Claim 2 is rejected under 35 U.S.C. 101 as being a substantial duplicate of claim 1. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to reject the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Objections

6. Claims 31-33 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the

Art Unit: 3724

claim(s) in independent form. For the examination purpose, it is assumed that claim 31 depends on claim 30.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 21-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 21, "said clamping assembly" lacks positive antecedent basis.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-8 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Fegley et al.

Fegley et al. discloses all the positively recited elements of the invention including:

Art Unit: 3724

- a) a base (1) having a substantially flat cutting surface having a first and second end (Fig. 1);
- b) a frame (6) overlying the cutting surface and mounted to the base;
- c) a receiving area (Fig. 1);
- d) a cutting assembly (10) sliding along a movement axis having a first and second component (Fig. 1 and 6);
- e) a cutting blade including a cutting edge (11);
- f) a driver including rack and pinion gear arrangement (13-15);
- g) a guide track (12) extending substantially parallel to the movement axis (Fig. 1 and 6);
- h) a lever (8) including a handle (19)

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fegley et al. Fegley et al. discloses the invention substantially as claimed including a backup bar opposing the cutting edge (the cutting surface of Fegley et al.) except a nylon backup bar.

Art Unit: 3724

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a cutting surface made from nylon, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

13. Claims 15-19 and 23-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fegley et al. in view of Sands et al.

With respect to claims 15-19, Fegley et al. discloses the invention substantially as claimed except a guide rail including a mandrel. Sands et al. discloses anvil (44) having an outer profile (49) designed to correspond with the inner contour of the head rail. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ an anvil as taught by Sands et al. on Fegley's device in order to facilitate securely holding of the head rail in place and prevents from twisting while it is being cut.

With respect to claims 23-30, Fegley et al. discloses the invention substantially as claimed except for:

- 1) the cutting blade including a massive portion and a pocket and the massive portion being thicker than the pocket;
- 2) the pocket is contiguous with the cutting edge and the massive portion surrounds the pocket;

Art Unit: 3724

- 3) the massive portion of the cutting blade is approximately 0.40-0.50 inches thick and the pocket is approximately 0.10-0.20 inches thick;
- 4) the cutting blade includes a first face substantially flat and a second face including the pocket;
- 5) the pocket including a tapered region extending from the cutting edge and the tapered region having a thickness increases as the distance from the cutting edge increases;
- 6) the tapered region includes a first tapered section extending away from the cutting edge and the first tapered section and the first face defining a first acute angle;
- 7) the tapered region includes a second tapered section extending from the first tapered section and remote from the cutting edge;
- 8) the second tapered section and the first face defining a second acute angle which is smaller than the first acute angle.

However, Sands et al. disclose a cutter blade (31) with front surface (120), a tapered region (124) which tapers from back surface (122) into general proximity with cutting edge (70), a bevel (126) forming a larger acute angle (129) with longitudinal axis (128) than does tapered region (124) which forms an acute angle (130). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a cutting blade as taught by Sands et al. on Fegley's device in order to improve the strength and durability to make efficient

Art Unit: 3724

cutting. With respect to claim 26, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make Fegley's blade with such range of thickness, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

14. Claims 20 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fegley et al. in view of Margolien.

With respect to claim 20, Fegley et al. discloses the invention substantially as claimed except for a clamping assembly. Margolien discloses a vise (41) having a handle (41a) and jaws (41b, 41c) to clamp a workpiece. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a vise as taught by Margolien on Fegley's device in order to secure a workpiece in a desired position.

With respect to claim 34, Fegley et al. disclose the invention substantially as claimed except for a measuring assembly. Margolien discloses a scale (57). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a measuring device as taught by Margolien on Fegley's device in order to measure the specified length.

15. Claims 21-22 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fegley et al. in view of Sands et al. as applied to claim 15 above, and further in view of Margolien.

Art Unit: 3724

With respect to claims 21-22, Fegley et al. and Sands et al. disclose the invention substantially as claimed except for a clamping assembly including a clamping block and a crank. Margolien discloses a vise (41) having a handle (41a) and jaws (41b, 41c) to clamp a workpiece. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a vise as taught by Margolien on the modified device of Fegley et al. in order to secure a workpiece in a desired position.

With respect to claim 31, Fegley et al. and Sands et al. disclose the invention substantially as claimed except for a measuring assembly. Margolien discloses a scale (57). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a measuring device as taught by Margolien on the modified device of Fegley et al. in order to measure the specified length.

16. Claims 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fegley et al. in view of Sands et al., and further in view of Margolien as applied to claim 31 above, and further in view of Yannazzone.

Fegley et al., Sands et al. and Margolien disclose the invention substantially as claimed except a stop block movable away from the second end during operation and the pocket facing the second end. Yannazzone teaches a stop (32) being removed after shaped clamps (34) fasten the stack of slats (16) onto the shaped anvils (12) so that the free ends (16a) of the slats are allowed to fall away freely, without being impeded by anything, for instance by the stops (32) or clamps to obtain a smooth end and smooth corners of the finished cut slats. With respect to

Art Unit: 3724

claim 33, see Fig. 1. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a stop as taught by Yannazzone on the modified device of Fegley et al. in order to reduce the force exerted by the cutting blade and to prevent the likelihood of cracking the workpiece while being cut.

17. Claims 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fegley et al. in view of Margolien as applied to claim 34 above, and further in view of Yannazzone.

Fegley et al. and Margolien disclose the invention substantially as claimed including a ruler (57) for measuring the workpiece. Fegley et al. and Margolien do not disclose a stop block movable between a first position in which the stop block engages the workpiece and a second position in which the stop block is remote from the workpiece. Yannazzone teaches that the stop (32) is removed after shaped clamps (34) fasten the stack of slats (16) onto the shaped anvils (12) so that the free ends (16a) of the slats are allowed to fall away freely, without being impeded by anything, for instance by the stops (32) or clamps to obtain a smooth end and smooth corners of the finished cut slats. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a stop as taught by Yannazzone on the modified device of Fegley et al. in order to reduce the force exerted by the cutting blade and to prevent the likelihood of cracking the workpiece while being cut.

Art Unit: 3724

Response to Arguments

18. Applicant's arguments with respect to claims 1-37 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to S. Choi whose telephone number is (703) 306-4523. The examiner can normally be reached on Tuesday to Friday from 8:30 to 3:30.

Art Unit: 3724

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada, can be reached on (703) 308-2187. The fax phone number for this Group is (703) 305-3579.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

sc
March 10, 2000


M. Rachuba
Primary Examiner